IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.22282 of 1999

Dated: 13-04-2007

Between:

P.O. Vishwanatha Mudali, s/o Osuru Mudali.

... Petitioner

and

1. The District Collector, Chittoor District, Chittoor and 2 others.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioner states that Thangedugunta Tank or Chinthala Patteda Eri is a registered Ayacut tank and it is in Sy.No.270/1, admeasuring
Acs.10-50 cents, situated in Gundraju Kuppam village accounts, Nagari Mandal, Chittoor District. The said tank is the only source of water supply to the lands in an extent of Acs.32-92 cents. When there were attempts by some vested interest with the connivance of revenue

officials to convert the said tank into house sites, the ayacutdars rep. by one S.G.Chinnayyan of Chinthalapatteda village filed O.S.No.137 of 1994 on the file of the Court of the Junior Civil Judge, Nagari seeking injunction against respondents herein restraining them from interfering with the said tank including changing its nature. Though the said suit was decreed on

17-03-1997, the said S.G.Chinnayyan joined hands with respondents and helped them to file appeal suit with a delay condonation petition.

As respondents were taking steps to reclassify the tank lands for eventual assignment, he filed W.P.No.9672 of 1998, wherein this Court on

07-04-1998 while issuing *Rule nisi,* in W.P.M.P.No.11753 of 1998 granted stay of demolition pending further orders. Subsequently, this Court by judgment dated 14-07-1999 in W.A.No.915 of 1999 while dismissing the appeal dismissed W.P.No.9672 of 1998 holding that he does not suffer any substantial or irreparable loss by establishing a school in the tank area and that the establishment of a school serve better public purpose. Taking advantage of the dismissal of W.P.No.9672 of 1998, one S.R. Arunachala Mudali brought political pressure on respondents to assign the said tank lands in his favour for agricultural purposes. He further states that the tank in question is Gram Panchayat property and assignment of the tank lands is forbidden in view of Section 85(1) of the Gram Panchayat Act, therefore, respondents have no authority under law to assign the tank poramboke lands in favour of private parties for private purpose.

As respondents are trying to assign the tank lands in question for private purpose, he filed the present writ petition seeking a *mandamus* to direct respondents not to assign the tank lands in question for private purpose.

3. Despite the fact that notices are served, respondents have not chosen to file any counter affidavit.

4. The rights of tank lands vests with the Gram Panchayat or the Government and the same cannot be assigned to anybody. Of course, the same can be done only after conversion of tank-bed lands into assessed wastelands. So long as the lands in question remain as tank beds, it is made clear that the authorities shall not assign the same to anybody.

5. Accordingly, the writ petition is allowed directing respondents not to assign Thangedugunta tank lands in Survey No.270/1 situated in Gundraju Kuppam village accounts, Nagari Mandal, Chittor District for any private purpose. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.13-04-2007
GLV